

09/308436
PTO/PCT Rec'd 20 DEC 1999

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#3

Applicant: Gregg S. Freishtat et al.

RECEIVED

Serial No.: 09/308,436

Examiner:

19 JAN 2000

Legal Staff
International Division

Filing Date: November 17, 1997

Group Art Unit:

For: SYSTEM FOR INTEGRATED MANAGEMENT
OF MESSAGING AND COMMUNICATIONS

PETITION UNDER 37 CFR 1.47(b)

Assistant Commissioner for Patents

Washington, D.C. 20231

Sir:

Applicant, Premiere Communications, Inc., submits this petition under 37 CFR 1.47(b) as part of its Response to Notification of Missing Requirements Under 35 U.S.C. 371 and Notification of a Defective Oath or Declaration (mailing date of June 18, 1999).

03/02/2000 WCLAYBRD 00000017 110855 09308436

01 FC:122 130.00 CH All of the inventors have refused to execute the application for patent, or cannot be found or reached after diligent effort. Applicant has been assigned the patent application by the inventors by a written assignment, and Applicant has a sufficient proprietary interest in this patent application so as to make application for the patent on

CERTIFICATE OF EXPRESS MAIL

I hereby certify that this correspondence, along with any paper referred to as being attached or enclosed, is being deposited with the United States Postal Service on this 20th day of December 1999 with sufficient postage as Express Mail No. EL228369136US in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Handwritten signature

U.S.S.N.: 09/308,436
Filed: November 17, 1997
For: SYSTEM FOR INTEGRATED MANAGEMENT OF MESSAGING AND COMMUNICATIONS

behalf of and as agent for all of the inventors. In support of its application, Applicant submits the following materials and statements (which are set forth in detail below and/or attached as Exhibits hereto): (A) an Oath/Declaration as required by 37 CFR 1.63 and 1.64 or 1.175; (B) a Statement of Relationship to the inventors as required by 37 CFR 1.64; (C) Proof that the inventors (1) cannot be found or reached after a diligent effort or (2) refuse to execute the application papers; (D) the last known addresses of the inventors; (E) a *Prima Facie* case that the invention has been assigned to the Applicant; and (F) Proof that the filing of the application is necessary (1) to preserve the rights of the parties or (2) to prevent irreparable damage.

(A) Oath/Declaration. Attached as Exhibit A is an Oath/Declaration as required by 37 CFR 1.63 and 1.64 or 1.175. The Oath/Declaration is executed by the undersigned attorney registered to practice before the United States Patent and Trademark Office (Nora M. Tocups, Registration No. 35,717) and includes a statement by the undersigned attorney (reiterated herein) that she is authorized to sign on behalf of the Applicant, Premiere Communications, Inc.

(B) Statement of Relationship. The invention in and this patent application (and related subject matter) have been assigned by the inventors to the Applicant as Assignee in a written document entitled "Assignment". Attached as Exhibit B is a Statement by Person Authorized by Entity Having Proprietary Interest to Make Application on Behalf of Nonsigning Inventors. This Statement includes a copy of the referenced Assignment from the inventors. The undersigned, Nora M. Tocups, and specified members of the firm of Kilpatrick Stockton LLP, are authorized to represent the Applicant before the United States Patent and Trademark Office. The undersigned, Nora M. Tocups, states that she is authorized to sign on behalf of the Applicant, Premiere Communications, Inc. In support of

U.S.S.N.: 09/308,436
Filed: November 17, 1997
For: SYSTEM FOR INTEGRATED MANAGEMENT OF MESSAGING AND COMMUNICATIONS

the authority of the undersigned, reference is made in the Statement to the authority of the undersigned and the firm of Kilpatrick Stockton LLP by inclusion of copies of the General Power of Attorney dated November 13, 1997 and filed in the PCT application, and to the Appointment of Associate Attorney filed with this patent application in the United States Patent and Trademark Office on May 18, 1999.

(C) Proof that the Inventors (1) Cannot Be Found or Reached After a Diligent Effort or (2) Refuse to Execute the Application Papers. Applicant submits the proof as the attached Exhibit C including: a Declaration of Facts from the undersigned registered attorney (Nora M. Tocups); and a Declaration of Facts from one of the patent paralegals (Karen D. Stark) in the offices of the undersigned registered attorney. The Declarations are made by persons with firsthand knowledge of the facts recited therein with respect to the diligent efforts and bona fide attempts made to present copies of the application papers to the nonsigning inventors for signature. The Declarations reference and include documentary evidence such as certified mail return receipts, cover letters of instruction, and other materials that support a finding that the nonsigning inventors could not be found or reached or refuse to execute the application papers.

(D) The Last Known Addresses of the Inventors. The last known addresses (where the inventors customarily receive mail) of the four inventors (all of whom are, on information and belief, United States citizens) are as follows:

Mr. David Gregory Smith
5312 S. Crescent Dr.
Tampa, Florida 33611-4126

U.S.S.N.: 09/308,436
Filed: November 17, 1997
For: SYSTEM FOR INTEGRATED MANAGEMENT OF MESSAGING AND COMMUNICATIONS

Mr. Michael James Cowden
1074 Peachtree Walk, B317
Atlanta, Georgia 30309

Mr. James Kenneth Leites
929 Highland Terrace N.E.
Atlanta, Georgia 30306-3413

Mr. Gregg S. Freishtat
2078 Renfroe Lake Drive
Atlanta, Georgia 30338

(E) A Prima Facie Case that the Invention Has Been Assigned to the Applicant. Applicant has established a *prima face* case that the inventions of the patent application, the patent application, and related subject matter have been assigned to the Applicant by attachment in Exhibit B of a copy of the Assignment document for this invention as executed by the inventors, Gregg S. Freishtat, James K. Leites, Michael J. Cowden, and David Gregory Smith, on November 18, 1996. Applicant also submits a Statement under 37 CFR 3.73 in Exhibit B.

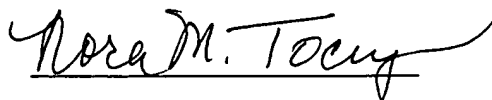
(F) Proof that the Filing of the Application Is Necessary (1) to Preserve the Rights of the Parties or (2) to Prevent Irreparable Damage. Proof of irreparable damage is established by Applicant by evidence that a filing date is necessary to make a claim for priority (35 U.S.C. 119, 120, or 121). As evidence of the necessity to make a claim for priority, Applicant submits a copy of the Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 filed in

U.S.S.N.: 09/308,436
Filed: November 17, 1997
For: SYSTEM FOR INTEGRATED MANAGEMENT OF MESSAGING AND COMMUNICATIONS

the United States Patent and Trademark Office with respect to this patent application on May 18, 1999 as Exhibit D. This patent application is an application in the United States in the national phase of International Patent Application No. PCT/US97/20986 filed on November 17, 1997. The International Patent Application, and hence, this patent application, also claims priority to the provisional patent application filed on November 18, 1996 as U.S. Serial No. 60,031,301. This provisional patent application also is referenced in Exhibit D as the basis for the priority date claimed.

The undersigned attorney, on behalf of the Applicant as Assignee, Premiere Communications Inc., and on behalf of the inventors, requests that prosecution of this application be allowed to continue.

Respectfully submitted,



Nora M. Tocups

Reg. No. 35,717

KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4530
404.815.6500

Attorney Docket No.: P0129/170179